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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,523	10/15/2004	Oli H Sjuragri	49741.6.1	4639

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EXAMINER

AMERSON, LORI BAKER

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/511,523	SJURAGRI, OLI H	
	Examiner	Art Unit	
	L Amerson	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d), but the claim for priority has not been checked in the

Oath.Specification

1. The abstract of the disclosure is objected to because line 1, "This invention relates to an" should read --An--. Correction is required. See MPEP § 608.01(b).

Claim Objections

2. Claims 1-12 are objected to because of the following informalities:
 - a. The numerical references should be removed from the claims;
 - b. Claim 1, the formatting does not comply with MPEP 608.0;
 - c. Claim 3, "hight" should read --height--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- d. The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

e. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Tauber. Tauber discloses all of the limitations of the instant invention.

Regarding the language, “for building strength and flexibility of muscles and other tissues”, “for abutment against a substantially plane and horizontal underlying surface “, “for abutment against a substantially plane and horizontal underlying surface characterized by that” has not been given patentable weight because the limitations are purely functional in nature and do not recited any structure. As to claims 4-5, the language, has not been given patentable weight because the limitations are purely functional in nature and do not recited any structure

f. Claims 1-2, 4-5, 8-9 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Stamm. Stamm discloses all of the limitations of the instant invention. Regarding the language, “for building strength and flexibility of muscles and other tissues”, “for abutment against a substantially plane and horizontal underlying surface “, “for abutment against a substantially plane and horizontal underlying surface characterized by that” has not been given patentable weight because the limitations are purely functional in nature and do not recited any structure. As to claims 4-5, the language, has not been given

patentable weight because the limitations are purely functional in nature and do not recited any structure.

g. Claims 1, 4-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Remy. Remy discloses all of the limitations of the instant invention. Regarding the language, “for building strength and flexibility of muscles and other tissues”, “for abutment against a substantially plane and horizontal underlying surface “, “for abutment against a substantially plane and horizontal underlying surface characterized by that” has not been given patentable weight because the limitations are purely functional in nature and do not recited any structure. As to claims 4-5, the language, has not been given patentable weight because the limitations are purely functional in nature and do not recited any structure

h. Claims 1-2, 4-5 and 8-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Allen. Allen discloses all of the limitations of the instant invention. Regarding the language, “for building strength and flexibility of muscles and other tissues”, “for abutment against a substantially plane and horizontal underlying surface “, “for abutment against a substantially plane and horizontal underlying surface characterized by that” has not been given patentable weight because the limitations are purely functional in nature and do not recited any structure. As to claims 4-5, the language, has not been given patentable weight because the limitations are purely functional in nature and do not recited any structure

i. Claims 1-2, 4-9 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Chu ‘549. Chu discloses all of the limitations of the instant

invention. Regarding the language, "for building strength and flexibility of muscles and other tissues", "for abutment against a substantially plane and horizontal underlying surface ", "for abutment against a substantially plane and horizontal underlying surface characterized by that" has not been given patentable weight because the limitations are purely functional in nature and do not recited any structure. As to claims 4-5, the language, has not been given patentable weight because the limitations are purely functional in nature and do not recited any structure

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

j. Claims 1-2 and 4-5 rejected under 35 U.S.C. 102(e) as being anticipated by Croft. Croft discloses all of the limitations of the instant invention. Regarding the language, "for building strength and flexibility of muscles and other tissues", "for abutment against a substantially plane and horizontal underlying surface ", "for abutment against a substantially plane and horizontal underlying surface characterized by that" has not been given patentable weight because the limitations are purely functional in nature and do not recited any structure. As to claims 4-5, the language, has not been given patentable weight because the limitations are purely functional in nature and do not recited any structure

Art Unit: 3764

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the similar devices cited on form 892. Any inquiry concerning this communication or earlier communications from the examiner should be directed to L Amerson whose telephone number is (571) 272-4971. The examiner can normally be reached on Mon.-Fri from 9-6 p.m. Interviews Tue. and Thur..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lori Amerson